

ORDINANCE NO. 98 - 44

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; THE TEXT OF THE **LAND USE ELEMENT** (TO REVISE AND UPDATE THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM); THE **INTRODUCTION AND ADMINISTRATION ELEMENT** (TO ADD DEFINITIONS RELATED TO THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17; and

**WHEREAS**, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

**WHEREAS**, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

**WHEREAS**, the Palm Beach County Local Planning Agency conducted a public hearing on February 13, 20, and 27, 1998 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

**WHEREAS**, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on March 30, 1998 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and

1 comment pursuant to Chapter 163, Part II, Florida Statutes; and

2 **WHEREAS**, Palm Beach County received on June 16, 1998, the  
3 Department of Community Affairs "Objections, Recommendations, and  
4 Comments Report," dated June 12, 1998, which was the Department's  
5 written review of the proposed Comprehensive Plan amendments; and

6 **WHEREAS**, the written comments submitted by the Department of  
7 Community Affairs contained no objections to the amendments contained  
8 in this ordinance;

9 **WHEREAS**, on September 16, 1998, the Palm Beach County Board of  
10 County Commissioners held a public hearing to review the written  
11 comments submitted by the Department of Community Affairs and to  
12 consider adoption of the amendments; and

13 **WHEREAS**, the Palm Beach County Board of County Commissioners has  
14 determined that the amendments comply with all requirements of the  
15 Local Government Comprehensive Planning and Land Development  
16 Regulations Act.

17 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
18 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

19 **Part I. Amendments to the 1989 Comprehensive Plan**

20 Amendments to the text of the following Elements of the 1989  
21 Comprehensive Plan are hereby adopted and are attached to this  
22 Ordinance in Exhibit 1:

23 **A. Land Use Element**, to revise and update the Transfer of  
24 Development Rights Program;

25 **B. Introduction and Administration Element**, to add definitions  
26 related to the Transfer of Development Rights Program;

27 **C. And amending all elements as necessary for internal**  
28 **consistency.**

29 **Part II. Repeal of Laws in Conflict**

30 All local laws and ordinances applying to the unincorporated area  
31 of Palm Beach County in conflict with any provision of this ordinance

1 are hereby repealed to the extent of such conflict.

2 **Part III. Severability**

3 If any section, paragraph, sentence, clause, phrase, or word of  
4 this Ordinance is for any reason held by the Court to be  
5 unconstitutional, inoperative or void, such holding shall not affect  
6 the remainder of this Ordinance.

7 **Part IV. Inclusion in the 1989 Comprehensive Plan**

8 The provision of this Ordinance shall become and be made a part  
9 of the 1989 Palm Beach County Comprehensive Plan. The Sections of the  
10 Ordinance may be renumbered or relettered to accomplish such, and the  
11 word "ordinance" may be changed to "section," "article," or any other  
12 appropriate word.

13 **Part V. Effective Date**

14 The effective date of this plan amendment shall be the date a  
15 final order is issued by the Department of Community Affairs or  
16 Administration Commission finding the amendment in compliance in  
17 accordance with Section 163.3184, Florida Statutes, whichever occurs



1 earlier. No development orders, development permits, or land uses  
2 dependent on this amendment may be issued or commence before it has  
3 become effective. If a final order of noncompliance is issued by the  
4 Administration Commission, this amendment may nevertheless be made  
5 effective by adoption of a resolution affirming its effective status,  
6 a copy of which resolutions shall be sent to the Department of  
7 Community Affairs, Bureau of Local Planning, 2740 Centerview Drive,  
8 Tallahassee, Florida 32399-2100. **APPROVED AND ADOPTED** by the Board  
9 of County Commissioners of Palm Beach County, on the 16 day of  
10 September, 1998.

11 ATTEST:  
12 DOROTHY H. WILKEN, Clerk

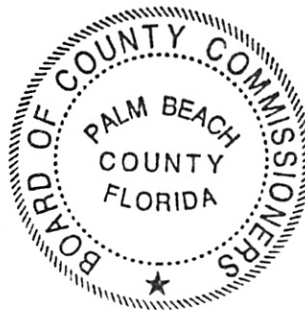
PALM BEACH COUNTY, FLORIDA,  
BY ITS BOARD OF COUNTY COMMISSIONERS

13 By: Jean Spruill  
14 Deputy Clerk

By: [Signature]  
Chair

15 APPROVED AS TO FORM AND  
16 LEGAL SUFFICIENCY

17 [Signature]  
18 COUNTY ATTORNEY



19 Filed with the Department of State on the 28th day  
20 of September, 1998.

21 T:\PLANNING\AMEND\98-1\BCCADOPT\Ordinanc\TDR\_ORD.WPD



## Exhibit 1

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### A. Land Use Element, Transfer of Development Rights Revisions

#### TEXT REVISIONS - Goals, Objectives, and Policies Section

### II. Land Use Element

#### Objective 2.3 Transfer of Development Rights

Palm Beach County shall ~~adopt and~~ implement a Transfer of Development Rights (TDR) program. The TDR program is designed to protect Environmentally Sensitive Lands and the Agricultural Reserve.

**Policy 2.3-a:** The Transfer of Development Rights program shall:

- ~~investigate and designate sending and receiving areas;~~
- assign densities within the sending areas on an equitable ~~basis~~ bases, based on the parcel's location, development potential and value to the community; ~~and;~~
- delineate specific receiving areas, and designate the appropriate density increases within each;
- provide ~~investigate~~ variable pricing for the County-owned TDR units, based on location and furthering the County Goals and Objectives contained within the Comprehensive Plan;
- establish incentives other than density, that the County would use to encourage Transfer of Development Rights; and
- define administrative and legal requirements, including notification to the Property Appraiser's office and recordation in the public records.
- ~~investigate and establish, if feasible, a Countywide TDR program.~~

**Policy 2.3-b:** The Transfer of Development Rights program shall be the required method for increasing density within the County, unless an applicant can both justify and demonstrate a need for a Future Land Use Atlas (FLUA) Amendment and demonstrate that the current FLUA designation is inappropriate, as outlined in the Introduction and Administration Element of the Comprehensive Plan, or the applicant is using the Voluntary Density Bonus program, as outlined in the Housing Element of the Comprehensive Plan and Section 6.9 of the Palm Beach County Unified Land Development Code.

**Policy 2.3-c:** The County shall designate the following as sending areas:

- lands designated Rural Residential (RR-20) on the Future Land Use Atlas;
- lands designated as priority acquisition sites by the Environmentally Sensitive Lands Acquisition Selection Committee (ESLASC) that meet the criteria listed below:
  1. Rarity in Palm Beach County of the native ecosystems present on the environmentally sensitive lands site;
  2. Diversity of the native ecosystems present on the environmentally sensitive lands site;
  3. Presence of species listed as endangered, threatened, rare, or of special concern by the U.S. Fish and Wildlife Service, the Florida Game and Fresh Water Fish Commission, the Florida Committee on Rare and Endangered Plants and Animals, or the Florida Department of Agriculture.
- lands designated Agricultural Reserve (AGR) on the Future Land Use Map; and
- other sites determined by the BCC to be worthy of protection,



provided that the sites further the purpose of the TDR program (to protect Environmentally Sensitive Lands (ESLs), in keeping with the criteria listed above, and the Agricultural Reserve) or the sites further County Goals, Objectives, and Policies.

**Policy 2.3-d:** Transfer rates for the sending areas shall be assigned as follows:

- for RR-20 lands, TDR credits are assigned at one du/five acres;
- for lands designated by the ESLASC (residential and non-residential), TDR credits are assigned at one du/five acres if located outside of the Urban Service Area. For residentially designated parcels, within the Urban Service Area, TDR credits for those sites shall equal the current PDD Land Use Designation plus a 15% transfer bonus above the maximum PDD density if less than the total available units are transferred, or the current PDD Land Use Designation plus a 25% transfer bonus above the maximum PDD density if all the available units are transferred; and
- for Agricultural Reserve lands, TDR credits are assigned at one (1) du/acre.

**Policy 2.3-e:** By January, 2000, and annually thereafter, the County shall evaluate the TDR Program to assess the need for additional sending areas. Should a need exist, the County shall investigate and designate, if warranted, the following as sending areas: school sites, historic and archaeological resources, and linked open space sites. Need shall be based upon at least a fifty (50) percent reduction in the number of TDR units in the County's TDR Bank or available in the private market.

**Policy 2.3-f:** Potential receiving areas shall be inside the Urban Service Area and shall include:

- Planned Development Districts (PDD) that are requesting an increase in density above the current PDD land use designation;
- Subdivisions requesting a bonus density above the standard land use designation density; and
- Traditional Neighborhood Developments (TNDs) requesting a bonus density above the underlying land use designation.

**Policy 2.3-g:** In order to encourage eastward development, and a tapering off of density towards the Urban Service Area Boundary, bonus densities may be applied for as follows:

- East of the Urban Service Area Boundary, and west of the Florida Turnpike, up to 2 du/acre additional
- East of the Florida Turnpike, but not in a Countywide Community Revitalization Team (CCRT) revitalization and redevelopment area, up to 3 du/acre additional; and
- Countywide Community Revitalization Team (CCRT) revitalization and redevelopment areas, up to 4 du/acre additional.

**Policy 2.3-h:** The County shall not approve the designation of receiving areas which would result in a significant negative impact upon adjacent Environmentally Sensitive Land. Significant negative impact shall be determined by the BCC based on findings by the Planning Division, in conjunction with the Department of Environmental Resources Management, the South Florida Water Management District and other applicable agencies, and be based upon data and analysis.



**Policy 2.3-i:** The County shall not approve the designation of receiving areas which would result in an incompatibility with the surrounding land uses (both existing and future). Compatibility shall be determined by the BCC based upon the following factors:

- 1) The character of the proposed development in relation to the adjacent properties including building type and size and the gross and net densities of the proposed receiving area and the adjacent properties; and.
- 2) Proximity of the proposed receiving area to environmentally sensitive lands.

**Policy 2.3-j:** Receiving areas meeting one or both of the following criteria shall be eligible for an additional one (1) du/acre density bonus: 1) proximity to community services and amenities including parks, community commercial facilities, and mass transit; or 2) proximity to employment centers (defined as regional commercial facilities or major industrial facilities). The determination of the appropriate density increases shall be based upon location, compatibility with the surrounding land uses, and consistency with County Goals, Objectives and Policies.

**Policy 2.3-k:** The County shall maintain a Transfer of Development Rights (TDR) bank. The administrative and legal requirements for the TDR bank shall be outlined in the Unified Land Development Code. Development rights for the bank can be generated from various sources including, but not limited to:

- development rights associated with environmentally sensitive lands which are purchased by the County, including the 14 Native Ecosystem "A" Quality Ecosites targeted for purchase through the County's bond issue; and
- development rights associated with other lands purchased by the County, in whole or in part, for the purposes of protection of agricultural lands and environmentally sensitive lands, including wetlands.

**Policy 2.3-l:** The value of the County's TDR units shall be established by the Board of County Commissioners. The price will be updated annually as part of the TDR annual report.

**Policy 2.3-m:** Countywide Community Revitalization Team (CCRT) defined Revitalization and Redevelopment Areas may receive preference as receiving areas and may be eligible for a twenty-five (25) percent reduction in cost for TDR Bank units. Other receiving areas which further County Goals, Objectives and Policies may be eligible for a ten (10) percent reduction in cost.

**Policy 2.3-n:** By January 2000, the County shall investigate alternative pricing methods to the TDR units within the TDR Bank, including but not limited to: using the appraised value of the purchased lands; the appraised value of the receiving areas; and the value of TDR units established by the private market.

**Policy 2.3-o:** By January 2001, the County shall investigate and adopt, if feasible and warranted, conversion formulas to allow for residential to non-residential TDR transfers.

**Policy 2.3-p:** By January 2000, the County shall seek municipal involvement by investigating and establishing, if feasible and warranted, a Countywide TDR program. The County shall utilize the Intergovernmental Plan Amendment Review Committee (IPARC) and the Issues Forum to seek municipal involvement.



## TEXT REVISIONS - Implementation Language

### Section B.1: Residential

#### 5) Transfer of Development Rights (TDR)

Pursuant to policy 2.3-i, the BCC determines the compatibility of a proposed TDR receiving area based upon the following factors:

- a. The character of the proposed development in relation to the adjacent properties including building type and size and the gross and net densities of the proposed receiving area and the adjacent properties. Character is evaluated as follows:

##### Net Density

When a difference of 2 du/acre is proposed between the net density of the receiving area and the adjacent property, a minimum 25 foot buffer of native vegetation is required. For every additional 1 du/acre (or fraction thereof), an additional 5 foot buffer of native vegetation is required.

##### Building Type and Size

The site development plan for the proposed receiving area must reflect a design that is harmonious and efficiently organized in relation to the size and shape of the tract and the character of the adjoining properties considering the type and size (mass and bulk) of the buildings.

##### Site Design

The site development plan for the proposed receiving area must consider the natural topography, native vegetation, existing lakes, and natural and manmade constraints found on site and reflect the limitations imposed by these factors.

- b. Proximity of the proposed receiving area to environmentally sensitive lands is evaluated as follows:

A receiving area must not degrade adjacent Environmentally Sensitive Lands. Therefore, the receiving area shall reduce the intensity/density of that portion of the development which is contiguous to any regionally significant natural resource as defined by the Treasure Coast Regional Planning Council, environmentally sensitive land as defined by the Environmentally Sensitive Lands Acquisition Selection Committee (ESLASC), or sites designated as preserve areas according to Section 9.5, Vegetation Preservation and Protection of the Unified Land Development Code, so that the development is compatible with, and does not destroy or negatively impact the environmentally sensitive area, by providing a buffer zone of native vegetation according to the following table.

Table 4. Required Buffer Zones for Receiving Areas Adjacent to ESLs.

<u>Density of Adjacent Pod/ Development Area</u>	<u>Required Buffer Zone of Native Vegetation</u>
<u>Net density of less than or equal to three (3) units per acre</u>	<u>50 foot buffer</u>
<u>Net density of less than or equal to five (5) units per acre</u>	<u>100 foot buffer</u>
<u>Net density of greater than five (5) units per acre</u>	<u>200 foot buffer</u>



~~To provide incentives for Transfer of Development Rights, the Plan requires that the County will develop, in conjunction with the Urban Form Study, a program for Transfer of Development Rights that will include:~~

- ~~• Mapping of areas where densities are allowed to be higher than the Land Use Plan categories when Transfer of Development Rights are received;~~
- ~~• Designating upper limits on the density when Transfer of Development Rights are received;~~
- ~~• Establishing incentives other than density, that the County would use to encourage Transfer of Development Rights; and~~
- ~~• Defining administrative and legal requirements, including notification to the Property Appraiser's office and recordation in the public records.~~

~~In order to preserve the function and value of wetland areas, the Land Use Plan Map designates some of the very important wetland areas as Rural Residential 20, allowing a maximum density of one dwelling unit per 20 acres. To provide an additional incentive to preserve these areas, the TDR provisions provide that density may be transferred from lands in the Rural Residential 20 category at a density of one dwelling unit per five acres to locations consistent with the County TDR Study. (The number of TDRs assigned to each sending area will be re-evaluated and assigned on a more equitable basis during preparation of the permanent program.) All development rights must be transferred from the Rural Residential 20 parcel if the TDR concept is utilized.~~

#### **~~Interim TDR Program~~**

~~Given the rapid disappearance of environmentally sensitive lands, the County shall establish an interim TDR program. The program shall remain in effect until the Urban Form Study is adopted, and a permanent program can be put into place. The interim program shall include sending and receiving areas, and a Transfer of Development Rights (TDR) Bank. Development rights can be purchased from the sending area or from the County TDR Bank.~~

##### **~~a) The Sending Areas shall include:~~**

- ~~• lands designated RR-20 on the Future Land Use Map (TDR credits are assigned at one du/five acres);~~
- ~~• All "A" Sites as designated on the Inventory of Native Ecosystems (TDR credits are assigned at one du/five acres if located outside of the Urban Service Area. TDR credits for those sites within the Urban Service Area shall equal the current PDD Land Use Designation; and~~
- ~~• lands designated AGR on the Future Land Use Map (TDR credits are assigned at one and a half (1½) du/acre);~~
- ~~• Other sites determined by the BCC to be worthy of protection. Development rights/credits to be determined by the BCC and included in the Zoning Ordinance. (For example, high quality wetland property unable to accommodate any development. The property owner would be entitled to transfer the current development potential of the property.)~~



**b) ~~Receiving Area shall include:~~**

- ~~• Planned Development Districts in the Urban Service Area that are requesting an increase in density above the current PDD land use designation, may receive a bonus density of up to 2.4 du/ac. The maximum PDD density shall never exceed 8 du/ac. The PDD must meet all requirements as outlined in the zoning ordinance; and~~
- Traditional Neighborhood Developments (TNDs) requesting a bonus density (up to 2 du/acre) above the underlying land use designation.

**c) ~~Transfer of Development Rights (TDR) Bank:~~**

~~A County Transfer of Development Rights Bank shall be established as part of the interim program. The administrative and legal requirements for the bank shall be outlined in the Zoning Ordinance. Development rights for the bank can be generated from various sources including, but not limited to:~~

- ~~• development rights associated with environmentally sensitive lands which are purchased by the County, including the 14 Native Ecosystem "A" Sites targeted for purchase through the County's bond issue. (Those "A" sites not purchased as part of the acquisition program, shall maintain the opportunity to transfer development rights on the open market.)~~
- ~~• development rights associated with other lands purchased by the County, in whole or in part, for the purposes of protection of environmentally sensitive lands, including wetlands.~~

~~The value of the development rights shall be established by the BGC with recommendation by the Land Use Advisory Board.~~

**8) Rural Residential-Density Provisions**

~~... To provide an additional incentive to preserve these areas, the TDR provisions provide that density may be transferred from lands in the Rural Residential 20 category at a density of one dwelling unit per five acres to locations consistent with the County TDR Study. (The number of TDRs assigned to each sending area will be re-evaluated and assigned on a more equitable basis during preparation of the permanent program.) All development rights must be transferred from the Rural Residential 20 parcel if the TDR concept is utilized.~~

**Section B.7: Agricultural Reserve (AGR)**

**~~... 4) Transfer of Development Rights~~**

~~Density may be transferred from lands in the Agricultural Reserve area to Planned Development Districts (PDDs), within the Urban Service Area consistent with the TDR regulations, at a rate of one dwelling units per acre. ...~~

**Section B.11: Conservation (CON)**

~~... Transfer of Development Rights (TDR) sending privileges may also be permitted from Conservation designated lands held in private ownership at a rate of one dwelling unit per 10 acres consistent with the provisions contained in this Element and the County's Urban Form Study, which shall designate on sending and receiving areas. ...~~



**B. Introduction and Administration Element, Transfer of Development Rights  
Definition Additions**

**TEXT ADDITIONS - Definitions Section**

**Community Commercial Facility:** The community commercial facility serves a population of between 20,000 and 100,000, and extends the services of the neighborhood center by providing a variety store or small department store as the major tenant. The average size is 150,000 square feet of gross floor area, with a range of between 100,000 and 300,000 square feet, requiring a site between 10 and 30 acres in size.

**Regional Commercial Facility:** The regional commercial facility is usually built about a major department store and includes a full complement and range of retail facilities usually found in a balanced small city. It could serve a population ranging from 100,000 to 250,000 people. An average size is about 400,000 square feet of gross floor area, although it may range as high as 1,000,000 square feet. A minimum site of 40 acres is required and centers of the largest size require as many as 100 acres.

**Major Industrial Facility:** Industrial facilities over 35 acres in size with typically at least 700,000 square feet of floor area.

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**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM  
CODRS CODING FORM**

**Instructions:** Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (904)-488-8427 or Suncom 278-8427.

COUNTY: (Palm Beach)	COUNTY ORDINANCE # (98-44) <small>(e.g., 83-001)</small>
PRIMARY KEYFIELD DESCRIPTOR: (Comprehensive Planning)	
SECONDARY KEYFIELD DESCRIPTOR: (Land Use Planning)	
OTHER KEYFIELD DESCRIPTOR: ( )	
ORDINANCE DESCRIPTION: (PLAN TEXT Amendment) <small>(25 characters maximum including spaces)</small>	
ORDINANCES AMENDED: <small>(List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)</small>	
AMENDMENT # 1: (89-17); AMENDMENT # 2: ( )	
ORDINANCES REPEALED: <small>(List below the ordinances that are repealed by this legislation.)</small>	
REPEAL # 1: ( ); REPEAL # 3: ( );	
REPEAL # 2: ( ); REPEAL # 4: ( );	
<small>(Others repealed: list all that apply):</small>	

(FOR OFFICE USE ONLY):	COUNTY CODE NUMBER: ( )
KEYFIELD 1 CODE: ( )	KEYFIELD 2 CODE: ( )
KEYFIELD 3 CODE: ( )	<small>Rev. 8/29/88</small>